UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,065	02/09/2001	Nicolas Goulet	P/189-143	6945

2352	7590	04/26/2005	

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

EXAMINER
NGUYEN, NGA B

ART UNIT	PAPER NUMBER
3628	

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	**Applicant(s)**
Office Action Summary		09/781,065	GOULET ET AL.
		Examiner	**Art Unit**
		Nga B. Nguyen	3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>09 February 2001</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This Office Action is in response to the communication filed on February 9,

2001, which paper has been placed of record in the file.

2.   Claims 1-22 are pending in this application.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Ojha et al (hereinafter Ojha), U.S. Patent No. 6,598,026.

Regarding to claim 1, Ojha discloses method for the creation of a dynamic

offering for perishable goods and services in an electronic trading system, being said

system accessible by at least, one producer, one purchaser and one channel (figure 1

and column 8, lines 49-65; the web site at which transactions between buyers and

sellers are facilitated is located on a server 102), said method comprising the steps of:

the producer entering details about individual units of inventory, into an

Inventory database via a producer interface (column 17, lines 1-35; the merchant enters

details about individual units of inventory into merchant's database; or column 19, lines

55-65; the merchant enters details about individual units of inventory into the

transaction site's database);

the purchaser interacting with the channel via a channel interface and entering

details of purchaser profile and search criteria (column 9, lines 18-55; the buyer logs on

to the system via login interface 300 of figure 3, the buyer initiate a search for particular

product; column 11, lines 14-57; the buyer submit an individual bid to a particular seller

for he listed product);

the producer electing to analyze historical data concerning the relative

effectiveness of various combinations of offering elements, and conducting simulations

that attempt to predict the efficacy of a particular offering, based on said historical data,

and using said simulations, to predict the performance of a particular combination of

offering elements to use in creating a new offering (column 12, lines 35-45 and column

13, lines 1-15; the merchant uses market information to formulate strategies for

responding to any of the outstanding bids, market information includes demand curve

for a particular product, price histories, bid histories, deal histories, etc.);

the producer selecting and/or defining elements about offering rules, into a

database via said producer interface (column 15, lines 30-67 and figures 13a-13k; the

seller specifies a number of business rules using interfaces 1300-1320, for each rule,

the seller defines a set of criteria, it is inherit that the business rules are stored in a

database of the transaction site);

the producer activating/deactivating said offering rules (column 16, lines 5-32;

the seller can add or delete business rules from the list);

the producer creating intermediate offers assigning the offering rules contained

in the database to the inventory contained in the Inventory database, which intermediate

offers are stored in a database (column 15, lines 30-67; the seller authorizes automated

responses to bids by specifying a number of business rules, it is inherit that the

automated responses are stored in a database of the transaction site);

a core engine constructing a dynamic offering for said perishable good or

service based on the intermediate offer contained in the database and on the purchaser

profile and search criteria (column 16, lines 34-58; the criteria specified include the

buyer reputation and the number of units, if a buyer with a highly rated reputation bids

on more than 10 units, according to the new rule, the ask price is reduced by 10%);

such that the dynamic offering constructed is tailored uniquely to each

purchaser, and optimizes both the producer and the purchaser situations, creating and

adding value for both the producer and the purchaser and also to the channel (column

16, lines 34-58; the criteria specified include the buyer reputation and the number of

units, if a buyer with a highly rated reputation bids on more than 10 units, according to

the new rule, the ask price is reduced by 10%).

Ojha does not teach the particular Offering rule database and Core Engine

database. However, creating a specific database for storing a specific data is well

known in the art of database management. Therefore, it would have been obvious to

one with ordinary skill in the art at the time the invention was made to modify Ojha's to

include the feature above for the purpose of providing more easily to manipulate and

access the data.

Regarding to claim 2, Ojha discloses whereby the entry of inventory comprises: the producer generating inventory, the producer identifying units of inventory to be made available and associating each unit to an inventory code, which inventory codes are organized and stored in an Inventory Codes Database, generating a directory of all inventory that could possibly be offered, the producer entering inventory details into an Inventory Details database (column 17, lines 1-38), the inventory codes are associated with said details and stored in the Inventory database (figure 13C, see "Enter product UPC codes").

Regarding to claim 3, Ojha discloses whereby said units of inventory include excess inventory (column 16, lines 17-20; Hi Inventory product group). Ojha does not teach oversold inventory and standard inventory. However, oversold and standard inventory is well known inventory group in the art of generating inventory. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Ojha's to include the feature above for the purpose of allowing the seller classifies into different inventory groups.

Regarding to claim 4, Ojha discloses whereby the entry of offering rules comprises the steps of:

the producer entering a predefined set of inventory group codes, that act as filters against the Inventory database to select only the units of inventory that meet certain criteria (figure 13C, see "Enter product UPC codes"),

the producer entering a predefined set of offering rules, which are organized

and stored in the Offering Rules database, said offering rules including: i. pricing rules

(figure 13A, e.g. "Price Drop Counter-Offer"), ii. purchaser segment rules (figure 13K,

e.g. "Buyer Reputation", "# of units"), iii. channel filtering rules (column 20, lines 5-20),

iv. negotiation rules (figure 13A, e.g. "Counter-Offer", "Max % Spread") , v. offering

administration rules, said offering rules being assigned to individual units of inventory

based on predefined offering parameters (figure 13A, see "This offer good for 8 hours

and figure 13K, see "Buyer Reputation").

Regarding to claim 5, Ojha discloses whereby said pricing rules determine both a

pricing mechanism and a pricing algorithm to be used during the offering (figure 13A,

"Price Drop Counter-Offer", "% Bid-List Spread").

Regarding to claim 6, Ojha discloses whereby said purchaser segment rules

designate characteristics of the purchaser segment to which the offering will be targeted

(figure 13K, e.g. "Buyer Reputation", "# of units" and column 16, lines 34-58; the criteria

specified include the buyer reputation and the number of units, if a buyer with a highly

rated reputation bids on more than 10 units, according to the new rule, the ask price is

reduced by 10%).

Regarding to claim 7, Ojha discloses whereby said channel filtering rules

determine through which channels the offering will be made available (column 20, lines

5-20).

Regarding to claim 8, Ojha discloses whereby said negotiation rules designate

certain non-price elements to be included in the offering, including Terms and

Conditions and Use of Certain Assets (figure 13A, e.g. "Counter-Offer", "Max %

Spread").

Regarding to claim 9, Ojha discloses whereby said offering administration rules

determine when an offering will be made available to the channels (column 20, lines 5-

20), for how long the offering will last (figure 13A, see "This offer good for 8 hours) and

how often it will be repeated (figure 13K, see "Buyer Reputation").

Regarding to claim 10, Ojha discloses whereby the method includes the steps of

notifying a third party via the corresponding interfaces of a potential transaction,

facilitating the participation of said third party in the offering and closing of the

transaction (column 19, lines 2-11; the transaction may be consummated at the

transaction site using private interfaces between the merchant and the buyer).

Regarding to claim 11, Ojha discloses whereby producers and channels are

provided with a means of presenting the offering in real time (column 20, lines 5-20).

Regarding to claim 12, Ojha discloses whereby the producer has the ability to

choose where the offering is presented, being able to decouple the choice of the pricing

rules from the choice of the channel (column 20, lines 5-20).

Regarding to claim 13, Ojha discloses whereby the producer has the ability to

select specific purchaser segments, independently from the channel being used (figure

13K, e.g. "Buyer Reputation", "# of units").

Regarding to claim 14, Ojha discloses whereby the producer has the ability to

choose the negotiation rules, controlling the manner in which the offering is presented to

the final purchaser (see figures 13A-13K).

Regarding to claim 15, Ojha discloses whereby the producer has the ability to offer non-price elements of value to the purchaser based on specific criteria, at a given point in time (see figures 13A-13K).

Regarding to claim 16, Ojha discloses whereby the producer combines the choice of the channel, the choice of the pricing rules and the choice of the negotiation rules into a single, effective decision making mechanism through which said producer has the ability to change each one of these components in real time, independently, and relative to any inventory grouping (see figure 13A-13K).

Regarding to claim 17, Ojha discloses system for the creation of a dynamic offering for perishable goods and services in an electronic trading system, being said system accessible by at least, one producer, one purchaser and one channel, said system including electronic or physical connections between said parties, whereby said system includes,

a core engine, which constructs a dynamic offering for said perishable good or service based on an intermediate offer contained in a database and on a purchaser profile and search criteria entered by said purchaser (column 16, lines 34-58; the criteria specified include the buyer reputation and the number of units, if a buyer with a highly rated reputation bids on more than 10 units, according to the new rule, the ask price is reduced by 10%),

such that the dynamic offering constructed is tailored uniquely to each purchaser, and optimizes both the producer and the purchaser situations, creating and

adding value for both the producer and the purchaser and also to the channel (column

16, lines 34-58; the criteria specified include the buyer reputation and the number of

units, if a buyer with a highly rated reputation bids on more than 10 units, according to

the new rule, the ask price is reduced by 10%).

Ojha does not teach the particular Core Engine database. However, creating a

specific database for storing a specific data is well known in the art of database

management. Therefore, it would have been obvious to one with ordinary skill in the art

at the time the invention was made to modify Ojha's to include the feature above for the

purpose of providing more easily to manipulate and access the data.

Regarding to claim 18, Ojha discloses whereby the system includes an

Inventory database which contains inventory data entered by the producer (column 19,

lines 55-67) and an Offering Rules database, which contains offering rules entered by

the producer (column 15, lines 30-67).

Regarding to claim 19, Ojha discloses whereby the offering rules include

inventory group codes, pricing codes, purchaser segment rules, channel filtering rules,

negotiation rules and offering administration rules (column 15, lines 30-67).

Regarding to claim 20, Ojha discloses whereby the system includes third parties

with corresponding interfaces, who wish to offer elements that are available at the time

of construction of the offer (column 7, lines 12-21; a transaction site on the Internet for

listing products for sale).

Regarding to claim 21, Ojha discloses whereby the system includes third parties

with corresponding interfaces, who wish to access the Core Engine directly through a

specific Automatic Programmable Interface (column 7, lines 45-57; Automatic responses).

Regarding to claim 22, Ojha discloses whereby the system includes Enabling Systems such as payment facilitators, reservations systems, logistics companies and credit card companies (column 21, lines 35-40).

Conclusion

5.   Claims **1-22** are rejected.

6.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (703) 306-2901. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (703) 308-0505.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-1113.

7.   Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

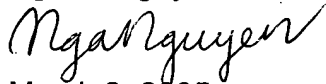C/o Technology Center 3600

Washington, DC 20231

Or faxed to:

(703) 872-9326 (for formal communication intended for entry),

or

(703) 308-3691 (for informal or draft communication, please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, Seventh Floor (Receptionist).

Nga B. Nguyen

March 2, 2005